

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Health Care to which was referred Senate Bill No. 50  
3 entitled “An act relating to insurance coverage for telemedicine services  
4 delivered in or outside a health care facility” respectfully reports that it has  
5 considered the same and recommends that the House propose to the Senate that  
6 the bill be amended by striking out all after the enacting clause and inserting in  
7 lieu thereof the following:

8 Sec. 1. 8 V.S.A. § 4100k is amended to read:

9 § 4100k. COVERAGE OF HEALTH CARE SERVICES DELIVERED  
10 THROUGH TELEMEDICINE SERVICES

11 (a) All health insurance plans in this State shall provide coverage for  
12 telemedicine health care services delivered through telemedicine by a health  
13 care provider at a distant site to a patient ~~in a health care facility~~ at an  
14 originating site to the same extent that the ~~services would be covered~~ plan  
15 would cover the services if they were provided through in-person  
16 consultation.

17 (b) A health insurance plan may charge a deductible, co-payment, or  
18 coinsurance for a health care service provided through telemedicine so long as  
19 it does not exceed the deductible, co-payment, or coinsurance applicable to an  
20 in-person consultation.

1 (c) A health insurance plan may limit coverage to health care providers in  
2 the plan's network ~~and may require originating site health care providers to~~  
3 ~~document the reason the services are being provided by telemedicine rather~~  
4 ~~than in person.~~ A health insurance plan shall not impose limitations on the  
5 number of telemedicine consultations a covered person may receive that  
6 exceed limitations otherwise placed on in-person covered services.

7 (d) Nothing in this section shall be construed to prohibit a health insurance  
8 plan from providing coverage for only those services that are medically  
9 necessary **and are clinically appropriate for delivery through telemedicine,**  
10 subject to the terms and conditions of the covered person's policy.

11 (e) A health insurance plan may reimburse for teleophthalmology or  
12 tele dermatology provided by store and forward means and may require the  
13 distant site health care provider to document the reason the services are being  
14 provided by store and forward means.

15 (f) Nothing in this section shall be construed to require a health insurance  
16 plan to reimburse the distant site health care provider if the distant site health  
17 care provider has insufficient information to render an opinion.

18 (g) In order to facilitate the use of telemedicine in treating substance use  
19 disorder, when the originating site is a health care facility, health insurers and  
20 the Department of Vermont Health Access shall ensure that ~~both the treating~~  
21 ~~clinician and the hosting facility~~ the health care provider at the distant site and

1 the health care facility at the originating site are both reimbursed for the  
2 services rendered, unless the health care providers at both the ~~host and service~~  
3 distant and originating sites are employed by the same entity.

4 (h) As used in this subchapter:

5 (1) “Distant site” means the location of the health care provider  
6 delivering services through telemedicine at the time the services are provided.

7 (2) “Health insurance plan” means any health insurance policy or health  
8 benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well  
9 as Medicaid and any other public health care assistance program offered or  
10 administered by the State or by any subdivision or instrumentality of the State.  
11 The term does not include policies or plans providing coverage for specified  
12 disease or other limited benefit coverage.

13 ~~(2)~~(3) “Health care facility” shall have the same meaning as in  
14 18 V.S.A. § 9402.

15 ~~(3)~~(4) “Health care provider” means:

16 ~~(A) a physician licensed pursuant to 26 V.S.A. chapter 23 or 33;~~

17 ~~(B) a naturopathic physician licensed pursuant to 26 V.S.A.~~

18 ~~chapter 81;~~

19 ~~(C) an advanced practice registered nurse licensed pursuant to~~

20 ~~26 V.S.A. chapter 28, subchapter 3;~~

1 ~~(D) a physician assistant licensed pursuant to 26 V.S.A. chapter~~  
2 ~~31;~~  
3 ~~(E) a psychologist licensed pursuant to 26 V.S.A. chapter 55;~~  
4 ~~(F) a social worker licensed pursuant to 26 V.S.A. chapter 61;~~  
5 ~~(G) an alcohol and drug abuse counselor licensed pursuant to~~  
6 ~~26 V.S.A. chapter 62;~~  
7 ~~(H) a clinical mental health counselor licensed pursuant to 26~~  
8 ~~V.S.A. chapter 65;~~  
9 ~~(I) a marriage and family therapist licensed pursuant to 26~~  
10 ~~V.S.A. chapter 76;~~  
11 ~~(J) a psychoanalyst licensed pursuant to 26 V.S.A. chapter 77;~~  
12 ~~(K) a physical therapist licensed pursuant to 26 V.S.A.~~  
13 ~~chapter 38;~~  
14 ~~(L) an occupational therapist licensed pursuant to 26 V.S.A.~~  
15 ~~chapter 71;~~  
16 ~~(M) a speech language pathologist licensed pursuant to 26 V.S.A.~~  
17 ~~chapter 87; and~~  
18 ~~(N) a dietician certified pursuant to 26 V.S.A. chapter 73 a~~  
19 ~~person, partnership, or corporation, other than a facility or institution,~~  
20 ~~that is licensed, certified, or otherwise authorized by law to provide~~

1 **professional health care service in this State to an individual during that**  
2 **individual’s medical care, treatment, or confinement.**

3 (5) “Originating site” means the location of the patient, whether or not  
4 accompanied by a health care provider, at the time services are provided by a  
5 health care provider through telemedicine, including a health care provider’s  
6 office, a hospital, or a health care facility, or the patient’s home or another  
7 nonmedical environment such as a school-based health center, a university-  
8 based health center, or the patient’s workplace.

9 (6) “Store and forward” means an asynchronous transmission of medical  
10 information to be reviewed at a later date by a health care provider at a distant  
11 site who is trained in the relevant specialty and by which the health care  
12 provider at the distant site reviews the medical information without the patient  
13 present in real time.

14 (4)(7) “Telemedicine” means the delivery of health care services such as  
15 diagnosis, consultation, or treatment through the use of live interactive audio  
16 and video over a secure connection that complies with the requirements of the  
17 Health Insurance Portability and Accountability Act of 1996, Public Law 104-  
18 191. Telemedicine does not include the use of audio-only telephone, e-mail, or  
19 facsimile.

1 Sec. 2. 18 V.S.A. § 9361 is amended to read:

2 § 9361. HEALTH CARE PROVIDERS PROVIDING **DELIVERING**  
3 HEALTH CARE SERVICES THROUGH TELEMEDICINE OR BY  
4 STORE AND FORWARD SERVICES MEANS

5 (a) As used in this section, “distant site,” “health care provider,”  
6 “originating site,” “store and forward,” and “telemedicine” shall have the same  
7 meanings as in 8 V.S.A. § 4100k.

8 (b) Subject to the limitations of the license under which the individual is  
9 practicing, a health care provider licensed in this state may prescribe, dispense,  
10 or administer drugs or medical supplies, or otherwise provide treatment  
11 recommendations to a patient after having performed an appropriate  
12 examination of the patient ~~either~~ in person, through telemedicine, or by the use  
13 of instrumentation and diagnostic equipment through which images and  
14 medical records may be transmitted electronically. Treatment  
15 recommendations made via electronic means, including issuing a prescription  
16 via electronic means, shall be held to the same standards of appropriate  
17 practice as those in traditional provider-patient settings. ~~For purposes of this~~  
18 ~~subchapter, “telemedicine” shall have the same meaning as in 8 V.S.A.~~  
19 ~~§ 4100k.~~

20 (c)(1) A health care provider delivering health care services through  
21 telemedicine shall obtain and document a patient’s oral or written informed

1 consent prior to delivering services to the patient. The provider shall include  
2 the written consent in the patient’s medical record or document the patient’s  
3 oral consent in the patient’s medical record.

4 (2) Informed consent for telemedicine services shall include, in  
5 language that patients can easily understand:

6 (A) an explanation of the differences between telemedicine and in-  
7 person delivery of health care services, including:

8 (i) that the patient may experience a qualitative difference in care  
9 based on potential differences in a patient’s ability to establish a therapeutic  
10 rapport with the provider in-person and through telemedicine; and

11 (ii) that telemedicine provides different opportunities and  
12 challenges for provider-patient interaction than in-person consultation,  
13 including the potential for differences in the degree and manner of the  
14 provider’s visual observations of the patient;

15 (B) informing the patient of the patient’s right to exclude any  
16 individual from participating in or observing the patient’s consultation with the  
17 provider at both the originating site and the distant site;

18 (C) **informing the patient** that the patient may stop telemedicine  
19 services at any time and may request a referral for in-person services; and

20 (D) assurance that all services the health care provider delivers to the  
21 patient through telemedicine will be delivered over a secure connection that

1 complies with the requirements of the Health Insurance Portability and  
2 Accountability Act of 1996, Public Law 104-191.

3 (3) For services delivered through telemedicine on an ongoing basis, the  
4 health care provider shall be required to obtain consent only at the first episode  
5 of care.

6 **(4) Notwithstanding any provision of this subsection (c) to the**  
7 **contrary, a health care provider shall not be required to obtain a patient’s**  
8 **informed consent for the use of telemedicine in the following**  
9 **circumstances:**

10 **(A) for the second certification of an emergency examination**  
11 **determining whether an individual is a person in need of treatment**  
12 **pursuant to section 7508 of this title; or**

13 **(B) for a psychiatrist’s examination to determine whether an**  
14 **individual is in need of inpatient hospitalization pursuant to 13 V.S.A.**  
15 **§ 4815(g)(3).**

16 (d)(1)(A) In the event that a health care provider and patient mutually agree  
17 to create a recording of the provider’s telemedicine consultation with the  
18 patient, the provider shall obtain the patient’s specific informed consent to  
19 create the recording. The informed consent may be obtained in writing, which  
20 shall be included in the patient’s medical record, or orally at the beginning of  
21 the recording.

1                    **(B) A health care provider shall obtain a new informed consent**  
2                    **from a patient prior to each recorded telemedicine consultation.**

3                    **(C) A health care provider shall not record a telemedicine**  
4                    **consultation over a patient’s objection or without the patient’s consent.**

5                    (2) The informed consent for recording a telemedicine consultation shall  
6                    include:

7                    (A) the reasons for recording the telemedicine consultation, which  
8                    may be at the patient’s request or at the health care provider’s suggestion with  
9                    the patient’s consent;

10                    (B) **notice** that the recording will become part of the patient’s  
11                    medical record;

12                    (C) the method of recording;

13                    (D) the manner in which the provider will store the recording;

14                    (E) who will have access to the recording; and

15                    (F) **notice of** the patient’s right to request a copy of the recording at  
16                    any time.

17                    ~~(b)~~(e) A patient receiving teleophthalmology or teledermatology by store  
18                    and forward means shall be informed of the right to receive a consultation with  
19                    the distant site health care provider and shall receive a consultation with the  
20                    distant site health care provider upon request. If requested, the consultation  
21                    with the distant site health care provider may occur either at the time of the

1 initial consultation or within a reasonable period of time ~~of~~ following the  
2 patient's notification of the results of the initial consultation. Receiving  
3 tele dermatology or teleophthalmology by store and forward means shall not  
4 preclude a patient from receiving real time telemedicine or face-to-face  
5 services with the distant site health care provider at a future date. Originating  
6 site health care providers involved in the store and forward process shall  
7 ~~ensure~~ obtain informed consent from the patient as described in subsection (c)  
8 of this section. ~~For purposes of this subchapter, "store and forward" shall have~~  
9 ~~the same meaning as in 8 V.S.A. § 4100k.~~

10 Sec. 3. REPEAL

11 33 V.S.A. § 1901i (Medicaid coverage for primary care telemedicine) is  
12 repealed.

13 Sec. 4. EFFECTIVE DATES

14 (a) Secs. 1 (health insurance coverage) and 3 (repeal) shall take effect on  
15 October 1, 2017 and shall apply to Medicaid on that date and to all other health  
16 insurance plans on or after October 1, 2017 on the date a health insurer issues,  
17 offers, or renews the health insurance plan, but in no event later than  
18 October 1, 2018.

19 (b) Sec. 2 (health care providers providing telemedicine) and this section  
20 shall take effect on passage.

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2 (Committee vote: \_\_\_\_\_)

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\_\_\_\_\_

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Representative \_\_\_\_\_

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FOR THE COMMITTEE